

# MADRP Bulletin

Maine Association of Dispute Resolution Professionals



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## Message from the President

Once again, we had a wonderful conference and annual meeting, thanks to attendees, Board of Governors and to our Conference Chair, Jeff Croft. For me, one of the highlights of any of our events is the chance to see and catch up with everyone. As well, I always enjoy learning some new approaches to the conflicts I facilitate and found Debbie Goldstien's model a fascinating way to break down what "really" happens in a conversation. Our own "real" conversation in the afternoon revealed that we ADR professionals have a few conversations of our own to convene. Several people commented that it was a good beginning conversation and asked how we might continue. Something we all need to think and work on in 2005! It was great to see several new faces at the conference and on our 2005 board. I'm looking forward to an invigorating and exciting year ahead with all of you. Happy Thanksgiving to you all.

—Susanna—

## Highlights from the Fall Conference

Debbie Goldstein, consultant for Triad Consulting, presented on the topic of difficult conversations— how to diagnose the situation, engage in the conversation and keep tough conversations on track. The first step is tuning into the internal voice (below the iceberg) and realize the bigger the inner voice gap the harder the conversation. The trick is to engage with what people are really thinking and feeling, not just what they're saying. There are 3 conversations— what happened, feelings about what happened and identity— what this says about me. Three shifts can happen in the "what happened" part— truth can move to perceptions (move from assumptions), blame to joint contribution, intentions to impact (what did we mean to happen and what did happen). She pointed out the way our brain works— we select the data— selecting and eliminating parts that we wish, interpret from our past experiences, implicit rules and assumptions and then draw our conclusions. Some questions to understand differences are; What do you see that leads you to that conclusion? Can you give me examples? Do you have past experience that influences how you see this? What are you most worried about? There also needs to be a balance between effective inquiry for purpose of clarity and advocacy that should be transparent and testable. She stressed the importance of understanding the difference between intention and impact. Intention is often not known but impact can be seen if we're paying close attention.

Following her presentation, a few people engaged in a conversation around the topics of mediation orientation and credentialing. It seemed to stir up more questions than answers and when processed at the end some of the insights gained were: it was difficult to have a "real" conversation with different people coming in and out, we weren't clear on our purpose and we all spent more time in advocacy than in inquiry. More intervention or different intervention might have helped the conversation but what can be better learning than to discover where the difficult conversation land mines might be found and then talk about what to do differently.

## Maine Residential Real Estate training a success

On September 17, 2004, mediators from around the northern part of the state gathered to participate in the Maine Residential Real Estate training sponsored by MADRP's expansion committee and the Penquis Dispute Resolution Center. TWELVE mediators participated in a lively and entertaining discussion of real estate issues presented by Jack Hunt, Esq., and John Alfano, which included transfers of real estate, disclosure statements and purchase and sale agreements. A primer of real estate law was presented followed by some sticky wickets that develop when real

estate is transferred between parties. Feedback from those who participated was very positive and was especially positive from those who had no real estate law training. Over all, everyone enjoyed the opportunity to learn more about MADRP, MRREMP and real estate. The expansion committee is now working on its next project, which is a regional panel discussion on the issue of confidentiality. Stay tuned for more details and for more information, please contact Bambi McGaw at 862-5110.

## MADRP UPCOMING EVENTS AND NEWS

**The Art of Authentic Communication**, workshop with Gina Cenciose: a training in Marshall Rosenberg's nonviolent communication. Dec. 3<sup>rd</sup> 7:30 - 9:00 pm, Dec. 4 9:00 - 5:00, Dec. 5 9:00 - 4:00 Hutchinson Center, University of Maine, Belfast, Me. For more info: 207-789-5299

### 40-HOUR Certificate Training in Transformative Mediation

Learn about and have opportunities to practice transformative mediation. The focus is on the transformative orientation and briefly touches other mediation models, giving a broad overview of the mediation field. The training is interactive with demonstrations and practice mediation scenarios, expanding your ability to approach conflict with more openness and awareness. February 2, 3, 4, 10, 11 8:30 - 4:30 \$675.00 For more information: Deb Bopsie 874-1175 or [dbopsie@youthalternatives.org](mailto:dbopsie@youthalternatives.org)

### MADRP's Reading Group

The reading group met on October 5th and discussed an excerpt of a provocative new book by Bernie Mayer, *Beyond Neutrality*. His central thesis is that the field of conflict resolution is facing a crisis as a result of over-reliance on the role of the third-party neutral and the failure to provide what people in conflict are seeking.

Come join us at the next meeting on Monday, December 6th from noon to 1:30 p.m. in room C of the Campus Center, USM in Portland- bring your own brown bag lunch. The group will continue reading Mayer's book- the next discussion will be chapters 3 and 4. You can order the book at [www.josseybass.com](http://www.josseybass.com) Questions or to RSVP contact: Diane Kenty at [dkenty@maine.rr.com](mailto:dkenty@maine.rr.com)

### What would you do?

High emotion is easy for me but what about the person in mediation who is low energy/ depressed/ non creative AND therefore controls the process with the negative energy. I had someone in a family who let the whole family go to ruin (financially) while idle and passive and controlling as dog on a chain.

The question is not just "what you would do?" because we might all know the right answers...but how did you feel about it? And how did you form the assessment you did?

### Any Answers our there for an inquiring Mediator.....

"I'm less likely to judge another person when I remember I'm always working with insufficient information. Just as every tree has roots that are out of sight, underground, so does every person have roots the eye can't see. It's important for me to remember, when the hanging judge enters the courtroom, that this is equally true about me."

Sy Sarfansky, editor,  
The Sun (May 2004)

Global security ultimately requires an exquisite balance between our fears and our fearlessness. We have to endure the painful process of learning what it means to be authentic allies to those who have been our enemies, because our security is inextricably wrapped up in theirs. Once we have the courage not to justify under any circumstances the basing of one's existence on the ruins of another, we will be able to begin down the road toward true global security.

-- Terry Greenblatt, Israeli peace activist

### MADRP CALENDAR OF EVENTS

December 6th 12:00 to 1:30 Book Group at USM Room C Campus Center

December 6th, 7th: MADRP Board of Governors Retreat Camp Kieve

January 5th Membership Meeting 9:30 to 11:30 Augusta (stay tuned for more details)



### ADR in Practice – An interview with Dave Jones

Interview and column written by -Bill Van Twisk

David C. ("Dave") Jones is President of Construction Industry Resources Group Inc. (CIRG), a construction consulting and dispute resolution provider based in Portland. Originally founded as a division of a large law firm, the company is now independent and statewide. Recently I spoke to Dave about his work.

Dave transferred his years of experience in the construction industry to a consulting practice embodying ADR. His work focuses on large construction industry projects, where disputes involve huge amounts of money to the parties.

However, Dave's services provide more value to the parties than simply dollars--he helps keep the project moving ahead and on schedule- a huge value to all the parties. A "typical" ADR job might involve the construction of a large commercial or institutional building, with many technical complexities and range of parties ancillary to the dispute such as; property owner, construction superintendent, architect, engineer and/or general contractor.

The main topic of discussion, the construction contract, can include; text, tables, drawings, descriptions of job functions and detailed contingencies to cover some unexpected situations that eventually can lead to many different interpretations and disagreements.

Often Dave's work begins with the "proposed change order," a contract amendment to deal with unexpected or insufficiently described parts of the project resulting in much discussion about "original intent" and "what was clearly implied" and "what the contract really says". A recent job had 450 outstanding proposed change orders and ended up with 600. One example: plans show "sink to be mounted" but no utility hookups are there. The owner's position, "I assume that you are going to hook this up" and the contractor's "No, that's not shown." Mediation, here we come.

The avenue of litigation or binding arbitration is always part of agreements, but most in the industry want to avoid it. Dave finds clients usually realize the value of good relationships with others and he works to foster this good will. He knows that disagreements and disputes will always continue in this arena and will continue providing opportunities for ADR in this important Maine industry.

### Response to "The Silver Bullet"

I am happy to hear her say that there are times the silver bullet approach might be appropriate. Beyond the applicability in labor or business mediation, it is also appropriate in some multicultural mediation. Some cultures will continue to mediate until the facilitator suggests a solution. In such cultures, normally a high context culture, they expect the authority figure to "solve" their problem after hearing both sides. In my judgment, this is not a flawed mediation process, it is knowing and being sensitive to the cultural needs of specific clients. R.L. Bergeron, Volunteer, Multicultural Mediator

Far away in the sunshine are my  
highest aspirations.

I may not reach them but I can look  
up and see their beauty, believe in  
them, and try to follow them.

-- Louisa May Alcott

**Sponsor the December bulletin.** For \$100 you can help defray costs and educate others about your practice. Send an article describing your practice- with your picture- electronically in jpeg format or by mail to: [jafano1@maine.rr.com](mailto:jafano1@maine.rr.com) or John Alfano, 5 Libby Drive, Biddeford 04005 with your check for \$100 payable to MADRP. Use this as a deductible advertising business expense and thanks in advance for your support.

**Give in to the urge to write: send responses, opinions, poems, interviews (see above), inspirational thoughts (see throughout) to [nmark@usm.maine.edu](mailto:nmark@usm.maine.edu)**

**MAINE ASSOCIATION OF DISPUTE RESOLUTION  
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"Speech is civilization itself. The word, even the most contradictory word, preserves contact- it is silence which isolates."  
--Thomas Mann

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**2004 MADRP Officers**

Susanna Liller, President  
Diane Kenty, Vice President  
Carol Corwin, Treasurer  
Tracy Quadro, Secretary



**2004 Committee Chairs**

Expansion: Bambi Magaw/ Marc Sevigny  
Meetings & Events: Jeff Croft  
Practice Quality: John Selser  
Public Policy: John Selser  
Public Info: Sheila Mayberry  
Membership: Lisa Levinson  
Profession Development: Kathy Leen  
Resource development: Anita Jones  
Advertising: John Alfano  
Facilitator Section: Anita Jones  
Maine Residential Real Estate Mediation Program (MRREMP) Jack Eler  
Bulletin: Nancy Markowitz  
Nominating Committee: Anita Jones  
At-large Board members: Karen Tucker, Dan Eichorn

**MADRP MISSION**

MADRP is a non-profit organization of diverse professional interests seeking to broaden public understanding and acceptance of alternative forms of dispute resolution. MADRP strives to enhance professional skills and qualifications of mediators, arbitrators, and other neutrals through training, educational development and promotion of standards of professional conduct.